

1 S.37

2 An act relating to access to legally protected health care activity and
3 regulation of health care providers

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 * * * Definitions * * *

6 Sec. 1. 1 V.S.A. § 150 is added to read:

7 § 150. LEGALLY PROTECTED HEALTH CARE ACTIVITY

8 (a) “Gender-affirming health care services” means all supplies, care, and
9 services of a medical, behavioral health, mental health, surgical, psychiatric,
10 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature,
11 including medication, relating to the treatment of gender dysphoria and gender
12 incongruence. “Gender-affirming health care services” does not include
13 conversion therapy as defined by 18 V.S.A. § 8351.

14 (b)(1) “Legally protected health care activity” means:

15 (A) the exercise and enjoyment, or attempted exercise and
16 enjoyment, by any person of rights to reproductive health care services or
17 gender-affirming health care services secured by this State;

18 (B) any act or omission undertaken to aid or encourage, or attempt to
19 aid or encourage, any person in the exercise and enjoyment, or attempted
20 exercise and enjoyment, of rights to reproductive health care services or
21 gender-affirming health care services secured by this State, provided that the
22 provision of such a health care service by a person duly licensed under the

1 laws of this State and physically present in this State shall be legally protected
2 if the service is permitted under the laws of this State, regardless of the
3 patient's location; or

4 (C) the provision, issuance, or use of, or enrollment in, insurance or
5 other health coverage for reproductive health care services or gender-affirming
6 health care services that are legal in this State, or any act to aid or encourage,
7 or attempt to aid or encourage, any person in the provision, issuance, or use of,
8 or enrollment in, insurance or other health coverage for those services,
9 regardless of the location of the insured or individual seeking insurance or
10 health coverage, if the insurance or health coverage is permitted under the laws
11 of this State.

12 (2) Except as provided in subdivision (3) of this subsection, the
13 protections applicable to "legally protected health care activity" shall not apply
14 to a lawsuit; judgment; or civil, criminal, or administrative action that is based
15 on conduct for which an action would exist under the laws of this State if the
16 course of conduct that forms the basis for liability had occurred entirely in this
17 State.

18 (3) Notwithstanding subdivision (2) of this subsection, the provision of a
19 health care service by a person duly licensed under the laws of this State and
20 physically present in this State shall be legally protected if the service is
21 permitted under the laws of this State, regardless of the patient's location or

1 whether the health care provider is licensed in the state where the patient is
2 located at the time the service is rendered.

3 (c)(1) “Reproductive health care services” means all supplies, care, and
4 services of a medical, behavioral health, mental health, surgical, psychiatric,
5 therapeutic, diagnostic, preventative, rehabilitative, or supportive nature,
6 including medication, relating to pregnancy, contraception, assisted
7 reproduction, pregnancy loss management, or the termination of a pregnancy.

8 (2) “Reproductive health care services” includes medication that was
9 approved by the U.S. Food and Drug Administration (FDA) for termination of
10 a pregnancy as of January 1, 2023, regardless of the medication’s current FDA
11 approval status:

12 (A) when such medication is procured, ordered, stored, distributed,
13 prescribed, dispensed, or administered, or a combination thereof, by a person
14 duly licensed under the laws of this State, as long as the licensee’s actions
15 conform to the essential standards of acceptable and prevailing practice for the
16 licensee’s profession; or

17 (B) when such medication is used by an individual.

18 * * * Medical Malpractice * * *

19 Sec. 2. 8 V.S.A. chapter 129 is amended to read:

20 CHAPTER 129. INSURANCE TRADE PRACTICES

21 * * *

1 § 4722. DEFINITIONS

2 * * *

3 (4)(A) “Abusive litigation” means litigation or other legal action to
4 deter, prevent, sanction, or punish any person engaging in legally protected
5 health care activity by:

6 (i) filing or prosecuting any action in any other state where
7 liability, in whole or part, directly or indirectly, is based on legally protected
8 health care activity that occurred in this State, including any action in which
9 liability is based on any theory of vicarious, joint, or several liability derived
10 therefrom; or

11 (ii) attempting to enforce any order or judgment issued in
12 connection with any such action by any party to the action or any person acting
13 on behalf of a party to the action.

14 (B) A lawsuit shall be considered to be based on conduct that
15 occurred in this State if any part of any act or omission involved in the course
16 of conduct that forms the basis for liability in the lawsuit occurs or is initiated
17 in this State, whether or not such act or omission is alleged or included in any
18 pleading or other filing in the lawsuit.

19 (5) “Legally protected health care activity” has the same meaning as in
20 1 V.S.A. § 150.

21 * * *

1 § 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
2 DECEPTIVE ACTS OR PRACTICES DEFINED

3 The following are hereby defined as unfair methods of competition or unfair
4 or deceptive acts or practices in the business of insurance:

5 * * *

6 (7) Unfair discrimination; arbitrary underwriting action.

7 (A) Making or permitting any unfair discrimination between insureds
8 of the same class and equal risk in the rates charged for any contract of
9 insurance, or in the dividends or other benefits payable thereon, or in any other
10 of the terms and conditions of such contracts.

11 * * *

12 (F)(i) Discriminating against a health care provider, as defined by
13 18 V.S.A. § 9496, or adjusting or otherwise calculating a health care provider's
14 risk classification or premium charges on the basis that:

15 (I) the health care provider provides or assists in the provision
16 of legally protected health care activity that is unlawful in another state;

17 (II) another state's laws create potential or actual liability for
18 that activity;

19 (III) abusive litigation against a provider concerning legally
20 protected health care activity resulted in a claim, settlement, or judgement
21 against the provider; or

1 For purposes of this section, health insurance plan includes any health benefit
2 plan offered or administered by the State or any subdivision or instrumentality
3 of the State. The term does not include benefit plans providing coverage for a
4 specific disease or other limited benefit coverage, except that it includes any
5 accident and sickness health plan.

6 (b) Coverage.

7 (1) A health insurance plan shall provide coverage for gender-affirming
8 health care services that:

9 (A) are medically necessary and clinically appropriate for the
10 individual's diagnosis or health condition; and

11 (B) are included in the State's essential health benefits benchmark
12 plan.

13 (2) Coverage provided pursuant to this section by Medicaid or any other
14 public health care assistance program shall comply with all federal
15 requirements imposed by the Centers for Medicare and Medicaid Services.

16 (3) Nothing in this section shall prohibit a health insurance plan from
17 providing greater coverage for gender-affirming health care services than is
18 required under this section.

19 (c) Cost sharing. A health insurance plan shall not impose greater
20 coinsurance, co-payment, deductible, or other cost-sharing requirements for

1 coverage of gender-affirming health care services than apply to the diagnosis
2 and treatment of any other physical or mental condition under the plan.

3 Sec. 4. 8 V.S.A. § 4099e is added to read:

4 § 4099e. COVERAGE FOR ABORTION AND ABORTION-RELATED

5 SERVICES

6 (a) Definitions. As used in this section:

7 (1) “Abortion” means any medical treatment intended to induce the
8 termination of, or to terminate, a clinically diagnosable pregnancy except for
9 the purpose of producing a live birth.

10 (2) “Health insurance plan” means Medicaid and any other public health
11 care assistance program, any individual or group health insurance policy, any
12 hospital or medical service corporation or health maintenance organization
13 subscriber contract, or any other health benefit plan offered, issued, or renewed
14 for any person in this State by a health insurer as defined by 18 V.S.A. § 9402.
15 For purposes of this section, health insurance plan shall include any health
16 benefit plan offered or administered by the State or any subdivision or
17 instrumentality of the State. The term shall not include benefit plans providing
18 coverage for a specific disease or other limited benefit coverage, except that it
19 shall include any accident and sickness health plan.

20 (b) Coverage. A health insurance plan shall provide coverage for abortion
21 and abortion-related care.

1 (c) Cost sharing. The coverage required by this section shall not be subject
2 to any co-payment, deductible, coinsurance, or other cost-sharing requirement
3 or additional charge, except:

4 (1) to the extent such coverage would disqualify a high-deductible
5 health plan from eligibility for a health savings account pursuant to 26 U.S.C.
6 § 223; and

7 (2) for coverage provided by Medicaid.

8 Sec. 5. STATE PLAN AMENDMENT

9 The Agency of Human Services shall seek a state plan amendment from the
10 Centers for Medicare and Medicaid Services or federal authorities if needed to
11 allow Vermont's Medicaid program to provide coverage consistent with this
12 act.

13 * * * Professional Regulation * * *

14 Sec. 6. 3 V.S.A. § 129a is amended to read:

15 § 129a. UNPROFESSIONAL CONDUCT

16 (a) In addition to any other provision of law, the following conduct by a
17 licensee constitutes unprofessional conduct. When that conduct is by an
18 applicant or person who later becomes an applicant, it may constitute grounds
19 for denial of a license or other disciplinary action. Any one of the following
20 items or any combination of items, whether the conduct at issue was
21 committed within or outside the State, shall constitute unprofessional conduct:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

* * *

(7) Willfully making or filing false reports or records in the practice of the profession, willfully impeding or obstructing the proper making or filing of reports or records, ~~or~~ willfully failing to file the proper reports or records, or willfully providing inaccurate health or medical information to a patient, including purposeful misrepresentation of a patient's health status.

* * *

(29) Providing or claiming to provide services or medications that are purported to reverse the effects of a medication abortion.

* * *

(f)(1) Health care providers. Notwithstanding subsection (e) of this section or any other law to the contrary, no health care provider who is certified, registered, or licensed in Vermont shall be subject to professional disciplinary action by a board or the Director, nor shall a board or the Director take adverse action on an application for certification, registration, or licensure of a qualified health care provider, based solely on:

(A) the health care provider providing or assisting in the provision of legally protected health care activity; or

(B) a criminal, civil, or disciplinary action in another state against the health care provider that is based solely on the provider providing or assisting in the provision of legally protected health care activity.

1 (B) a criminal, civil, or disciplinary action in another state against the
2 health care provider that is based solely on the provider providing or assisting
3 in the provision of legally protected health care activity.

4 (2) Definitions. As used in this subsection:

5 (A) “Health care provider” means a person who provides
6 professional health care services to an individual during that individual’s
7 medical care, treatment, or confinement.

8 (B) “Health care services” means services for the diagnosis,
9 prevention, treatment, cure, or relief of a physical or mental health condition,
10 including procedures, products, devices, and medications.

11 (C) “Legally protected health care activity” has the same meaning as
12 in 1 V.S.A. § 150.

13 * * * Pregnancy Centers * * *

14 Sec. 8. 9 V.S.A. chapter 63, subchapter 11 is added to read:

15 Subchapter 11. Pregnancy Services Centers

16 § 2491. FINDINGS; LEGISLATIVE INTENT

17 (a) Findings. The General Assembly finds that:

18 (1) Centers that seek to counsel clients against abortion, often referred to
19 as crisis pregnancy centers or limited-services pregnancy centers, have become
20 common across the country, including in Vermont. Accurate information
21 about the services that a limited-services pregnancy center performs, in

1 addition to forthright acknowledgement of its limitations, is essential to enable
2 individuals in this State to make informed decisions about their care. This
3 includes individuals being informed of whether they are receiving services
4 from a licensed and qualified health care provider at a limited-services
5 pregnancy center, as this allows individuals to determine if they need to seek
6 medical care elsewhere in order to continue or terminate a pregnancy.

7 (2) Although some limited-services pregnancy centers openly
8 acknowledge in their advertising, on their websites, and at their facilities that
9 they neither provide abortions nor refer clients to other providers of abortion
10 services, others provide confusing and misleading information to pregnant
11 individuals contemplating abortion by leading those individuals to believe that
12 their facilities offer abortion services and unbiased counseling. Some limited-
13 services pregnancy centers have promoted patently false or biased medical
14 claims about abortion, pregnancy, contraception, and reproductive health care
15 providers.

16 (3) False and misleading advertising by centers that do not offer or refer
17 clients for abortion is of special concern to the State because of the time-
18 sensitive and constitutionally protected nature of the decision to continue or
19 terminate a pregnancy. When a pregnant individual is misled into believing
20 that a center offers services that it does not in fact offer or receives false or
21 misleading information regarding health care options, the individual loses time

1 crucial to the decision whether to terminate a pregnancy and may lose the
2 option to choose a particular method or to terminate a pregnancy at all.

3 (4) Telling the truth is how trained health care providers demonstrate
4 respect for patients, foster trust, promote self-determination, and cultivate an
5 environment where best practices in shared decision-making can flourish.
6 Without veracity in information and communication, it is difficult for
7 individuals to make informed, voluntary choices that are essential to one's
8 sense of personal agency and autonomy.

9 (5) Advertising strategies and educational information about health care
10 options that lack transparency, use misleading or ambiguous terminology,
11 misrepresent or obfuscate services provided, or provide factually inaccurate
12 information are a form of manipulation that disrespects individuals,
13 undermines trust, broadens health disparity, and can result in patient harm.

14 (b) Intent.

15 (1) It is the intent of the General Assembly to ensure that the public is
16 provided with accurate, factual information about the types of health care
17 services that are available to pregnant individuals in this State. The General
18 Assembly respects the constitutionally protected right of each individual to
19 personal reproductive autonomy, which includes the right to receive clear,
20 honest, and nonmisleading information about the individual's options and to
21 make informed, voluntary choices after considering all relevant information.

1 (2) The General Assembly respects the right of limited-services
2 pregnancy centers to counsel individuals against abortion, and nothing in this
3 subchapter should be construed to regulate, limit, or curtail such advocacy.

4 § 2492. DEFINITIONS

5 As used in this subchapter:

6 (1) “Abortion” means any medical treatment intended to induce the
7 termination of, or to terminate, a clinically diagnosable pregnancy except for
8 the purpose of producing a live birth.

9 (2) “Client” means an individual who is inquiring about or seeking
10 services at a pregnancy services center.

11 (3) “Emergency contraception” means any drug approved by the U.S.
12 Food and Drug Administration as a contraceptive method for use after sexual
13 intercourse, whether provided over the counter or by prescription.

14 (4) “Health information” means any oral or written information in any
15 form or medium that relates to health insurance or the past, present, or future
16 physical or mental health or condition of a client.

17 (5) “Limited-services pregnancy center” means a pregnancy services
18 center that does not directly provide, or provide referrals to clients for,
19 abortions or emergency contraception.

20 (6) “Pregnancy services center” means a facility, including a mobile
21 facility, where the primary purpose is to provide services to individuals who

1 are or may be pregnant and that either offers obstetric ultrasounds, obstetric
2 sonograms, or prenatal care to pregnant individuals or has the appearance of a
3 medical facility. A pregnancy services center has the appearance of a medical
4 facility if two or more of the following factors are present:

5 (A) The center offers pregnancy testing or pregnancy diagnosis, or
6 both.

7 (B) The center has staff or volunteers who wear medical attire or
8 uniforms.

9 (C) The center contains one or more examination tables.

10 (D) The center contains a private or semiprivate room or area
11 containing medical supplies or medical instruments.

12 (E) The center has staff or volunteers who collect health information
13 from clients.

14 (F) The center is located on the same premises as a State-licensed
15 medical facility or provider or shares facility space with a State-licensed
16 medical provider.

17 (7) "Premises" means land and improvements or appurtenances or any
18 part thereof.

19 § 2493. UNFAIR AND DECEPTIVE ACT

20 (a) It is an unfair and deceptive act and practice in commerce and a
21 violation of section 2453 of this title for any limited-services pregnancy center

1 to disseminate or cause to be disseminated to the public any advertising about
2 the services or proposed services performed at that center that is untrue or
3 clearly designed to mislead the public about the nature of services provided.
4 Advertising includes representations made directly to consumers; marketing
5 practices; communication in any print medium, such as newspapers,
6 magazines, mailers, or handouts; and any broadcast medium, such as television
7 or radio, telephone marketing, or advertising over the Internet such as through
8 websites and web ads. For purposes of this chapter, advertising or the
9 provision of services by a limited-services pregnancy center is an act in
10 commerce.

11 (b) Health care providers certified, registered, or licensed under Title 26 of
12 the Vermont Statutes Annotated who are employed by, contracted to provide
13 services for or on behalf of, or volunteer to provide services at a limited-
14 services pregnancy center shall be responsible for conducting and providing
15 health care services, information, and counseling at the center. The failure of a
16 health care professional certified, registered, or licensed under Title 26 of the
17 Vermont Statutes Annotated to conduct or to ensure that health care services,
18 information, and counseling at the limited-services pregnancy services center
19 are conducted in accordance with State law and professional standards of
20 practice may constitute unprofessional conduct under 3 V.S.A. § 129a and
21 26 V.S.A. § 1354.

1 related to the social determinants of health. The Plan shall be revised
2 periodically, but not less frequently than once every four years.

3 * * *

4 (3) The Board shall receive and consider public input on the Plan at a
5 minimum of one Board meeting and one meeting of the Advisory Committee
6 and shall give interested persons an opportunity to submit their views orally
7 and in writing.

8 (4) The Board shall include reproductive health care services and
9 gender-affirming health care services, as those terms are defined in 1 V.S.A.
10 § 150, in its Plan analysis.

11 (5) As used in this section:

12 (A) “Health resources” means investments into the State’s health care
13 system, including investments in personnel, equipment, and infrastructure
14 necessary to deliver:

15 * * *

16 Sec. 9a. AGENCY OF HUMAN SERVICES; STATE HEALTH
17 ASSESSMENT; COMMUNITY PROFILES

18 The Agency of Human Services shall work with LGBTQA+ community
19 stakeholders and health care providers during the upcoming State Health
20 Assessment and Community Profiles community engagement processes to

1 explore barriers to equitable access to gender-affirming health care services, as
2 defined in 1 V.S.A. § 150.

3 Sec. 10. BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL
4 REGULATION; INTERSTATE COMPACTS; REPORT

5 On or before November 1, 2025, the Office of Professional Regulation, in
6 consultation with the Board of Medical Practice, shall submit a report to the
7 House Committee on Health Care and the Senate Committee on Health and
8 Welfare with findings and recommendations for legislative action to address
9 any concerns regarding the State's participation, or contemplated participation,
10 in interstate licensure compacts as a result of the provisions of this act,
11 including the State's participation in the Nurse Licensure Compact pursuant to
12 26 V.S.A. chapter 28, subchapter 5 and the Interstate Medical Licensure
13 Compact pursuant to 26 V.S.A. chapter 23, subchapter 3A.

14 Sec. 10a. 26 V.S.A. chapter 56 is amended to read:

15 CHAPTER 56. OUT-OF-STATE TELEHEALTH LICENSURE &
16 REGISTRATION AND INTERSTATE COMPACTS

17 Subchapter 1. Out-of-State Telehealth Licensure and Registration

18 * * *

19 Subchapter 2. Interstate Compacts; Health Care Provider Compacts

20 § 3071. HEALTH CARE PROVIDER COMPACTS; DIRECTION TO
21 VERMONT REPRESENTATIVES

1 (a) The General Assembly finds that a state’s prohibition of or limitation on
2 the provision of gender-affirming health care services or reproductive health
3 care services, or both, as defined by 1 V.S.A. § 150, prohibits health care
4 providers from following health care best practices and is a failure on the part
5 of the state to provide health care services that are medically necessary and
6 clinically appropriate for its residents. Therefore, it is the General Assembly’s
7 intent to protect the ability of professionals licensed, certified, or registered in
8 Vermont, and professionals from other member states seeking to practice a
9 profession in Vermont pursuant to an interstate compact or agreement, to have
10 the benefit of compacts and agreements while at the same time engaging in,
11 providing, or otherwise facilitating, personally or professionally, gender-
12 affirming health care and reproductive health care services.

13 (b) Vermont’s representative or delegate for an interstate compact or
14 agreement related to health care shall seek an amendment or exception to the
15 language, rules, directives, or bylaws of the compact or agreement, as
16 necessary, so that if a licensee is disciplined by another state solely for
17 providing or assisting in the provision of gender-affirming health care services
18 or reproductive health care services that would be legal and meet professional
19 standards of care if provided in Vermont, the compact or agreement does not
20 require that Vermont take professional disciplinary action against the licensee.

1 (ix) emergency prescribing of albuterol or glucagon while
2 contemporaneously contacting emergency services; ~~and~~

3 (x) tests for SARS-CoV for asymptomatic individuals or related
4 serology for individuals by entities holding a Certificate of Waiver pursuant to
5 the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a); and

6 (xi) emergency contraception.

7 * * *

8 Sec. 11a. 26 V.S.A. § 2077 is added to read:

9 § 2077. EMERGENCY CONTRACEPTION; VENDING MACHINES

10 (a) A retail or institutional drug outlet licensed under this chapter or a
11 postsecondary school, as defined in and subject to 16 V.S.A. § 176, may make
12 over-the-counter emergency contraception and other nonprescription drugs or
13 articles for the prevention of pregnancy or conception available through a
14 vending machine or similar device.

15 (b) Notwithstanding any provision of subsection 2032(h) of this chapter to
16 the contrary, the Board may adopt rules in accordance with 3 V.S.A. chapter
17 25 to regulate the location, operation, utilization, and oversight of the vending
18 machines and similar devices described in subsection (a) of this section in a
19 manner that balances consumer access with appropriate safeguards for theft
20 prevention and safety.

1 * * * Higher Education; Health Care Services * * *

2 Sec. 12. 16 V.S.A. chapter 78 is added to read:

3 CHAPTER 78. ACCESS TO REPRODUCTIVE AND GENDER-
4 AFFIRMING HEALTH CARE SERVICES

5 § 2501. DEFINITIONS

6 As used in this chapter:

7 (1) “Gender-affirming health care readiness” means each institution’s
8 preparedness to provide gender-affirming health care services to students or
9 assist students in obtaining gender-affirming health care services, including
10 having in place equipment, protocols, patient educational materials,
11 informational websites, and training for staff; provided, however, that gender-
12 affirming health care readiness may include the provision of gender-affirming
13 health care services.

14 (2) “Gender-affirming health care services” has the same meaning as in
15 1 V.S.A. § 150.

16 (3) “Institution” means the University of Vermont or a college in the
17 Vermont State College system.

18 (4) “Reproductive health care services” has the same meaning as in
19 1 V.S.A. § 150.

20 (5) “Reproductive health care readiness” means each institution’s
21 preparedness to provide reproductive health care services to students or assist

1 students in obtaining reproductive health care services, including having in
2 place equipment, protocols, patient educational materials, informational
3 websites, and training for staff; provided, however, that reproductive health
4 care readiness may include the provision of reproductive health care services.

5 (6) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.

6 § 2502. GENDER-AFFIRMING HEALTH CARE AND REPRODUCTIVE
7 HEALTH CARE READINESS; REPORTS

8 (a) Each institution shall report to the Agency of Human Services annually,
9 on or before November 1, on the current status of its gender-affirming health
10 care and reproductive health care readiness, including:

11 (1) whether the institution has an operational health center on campus;

12 (2) whether the institution employs health care providers on campus;

13 (3) the types of gender-affirming health care services and reproductive
14 health care services that the institution offers to its students on campus and the
15 supports that the institution provides to students who receive those services;

16 (4) the institution’s efforts to assist students with obtaining gender-
17 affirming health care services and reproductive health care services from
18 licensed health care professionals through telehealth;

19 (5) the institution’s proximity to a hospital, clinic, or other facility that
20 provides gender-affirming health care services or reproductive health care
21 services, or both, that are not available to students on campus;

1 * * * Prohibition on Disclosure of Protected Health Information * * *

2 Sec. 14. 18 V.S.A. § 1881 is amended to read:

3 § 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION

4 PROHIBITED

5 (a) As used in this section:

6 (1) “Business associate” has the same meaning as in 45 C.F.R.

7 § 160.103.

8 (2) “Covered entity” shall have has the same meaning as in 45 C.F.R.

9 § 160.103.

10 (3) “Legally protected health care activity” has the same meaning as in

11 1 V.S.A. § 150.

12 ~~(2)~~(4) “Protected health information” shall have has the same meaning
13 as in 45 C.F.R. § 160.103.

14 (5) “Telehealth” has the same meaning as in 26 V.S.A. § 3052.

15 (b) A covered entity or business associate shall not disclose protected
16 health information unless the disclosure is permitted under the Health
17 Insurance Portability and Accountability Act of 1996 (HIPAA).

18 (c) In order to protect patients and providers who engage in legally
19 protected health care activity, a covered entity or business associate shall not
20 disclose protected health information related to a legally protected health care
21 activity for use in a civil or criminal action; a proceeding preliminary to a civil

1 or criminal action; or a probate, legislative, or administrative proceeding unless
2 the disclosure meets one or more of the following conditions:

3 (1) The disclosure is authorized by the patient or the patient's
4 conservator, guardian, or other authorized legal representative.

5 (2) The disclosure is specifically required by federal law, Vermont law,
6 or rules adopted by the Vermont Supreme Court.

7 (3) The disclosure is ordered by a court of competent jurisdiction
8 pursuant to federal law, Vermont law, or rules adopted by the Vermont
9 Supreme Court. An order compelling disclosure under this subdivision shall
10 include the court's determination that good cause exists to require disclosure of
11 the information related to legally protected health care activity.

12 (4) The disclosure is to be made to a person designated by the covered
13 entity or business associate and will be used solely in the defense of the
14 covered entity or business associate against a claim that has been made, or
15 there is a reasonable belief will be made, against the covered entity or business
16 associate in a civil or criminal action; a proceeding preliminary to a civil or
17 criminal action; or a probate, legislative, or administrative proceeding.

18 (5) The disclosure is to Vermont's Board of Medical Practice or Office
19 of Professional Regulation, as applicable, in connection with a bona fide
20 investigation in Vermont of a licensed, certified, or registered health care
21 provider or a bona fide investigation of whether an individual who is not

1 licensed, certified, or registered to practice a health care profession in Vermont
2 engaged in unauthorized practice in this State, whether in person or through
3 telehealth.

4 (6) The disclosure is to the Vermont Department of Health or the
5 Vermont Department of Disabilities, Aging, and Independent Living, or both,
6 in connection with a bona fide investigation of a licensed health care facility in
7 Vermont.

8 * * * Effective Dates * * *

9 Sec. 15. EFFECTIVE DATES

10 (a) This section, Sec. 1 (definitions), Sec. 2 (medical malpractice), Secs. 6
11 and 7 (unprofessional conduct), Sec. 8 (pregnancy services centers), Secs. 9,
12 9a, and 10 (reports and analyses), Sec. 11a (emergency contraception; vending
13 machines), Secs. 12 and 13 (gender-affirming health care and reproductive
14 health care readiness; reports), and Sec. 14 (prohibition on disclosure of
15 protected health information) shall take effect on passage.

16 (b) Secs. 3 and 4 (insurance coverage) shall take effect on January 1, 2024
17 and shall apply to all health insurance plans issued on and after January 1,
18 2024 on such date as a health insurer offers, issues, or renews the health
19 insurance plan, but in no event later than January 1, 2025.

20 (c) Sec. 5 (state plan amendment) shall take effect on January 1, 2024,
21 except that the Agency of Human Services shall submit its request for approval

1 of Medicaid coverage of the services prescribed in Sec. 4 of this act, if needed,
2 to the Centers for Medicare and Medicaid Services on or before July 1, 2023,
3 and the Medicaid coverage shall begin on the later of the date of approval or
4 January 1, 2024.

5 (d) Sec. 10a (interstate compacts; state representatives) shall take effect on
6 July 1, 2023.

7 (e) Sec. 11 (emergency contraception) shall take effect on or before
8 September 1, 2023, on such date as the Commissioner of Health approves the
9 State protocol.